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Case Number:  
34-2012-00117584

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SACRAMENTO

DARRELL STEINBERG, in his capacity as  
PRESIDENT PRO TEMPORE OF THE CALIFORNIA  
SENATE ; JOHN A. PÉREZ, in his capacity as  
SPEAKER OF THE CALIFORNIA ASSEMBLY,

Plaintiffs,

v.

JOHN CHIANG, in his capacity as CALIFORNIA  
STATE CONTROLLER; DOES I-X,

Defendants.

**Exempt From Filing Fees  
Pursuant to Gov. Code § 6103**

CASE NO.

COMPLAINT FOR DECLARATORY  
RELIEF

(Code Civ. Proc., § 1060)

**Department  
Assignments**

Case Management 44  
Law and Motion 53  
Minors Compromise 45

1 Come now Plaintiffs Darrell Steinberg and John A. Pérez and allege as follows:

2 **INTRODUCTION**

3 1. This lawsuit seeks declaratory relief to resolve an ongoing controversy between  
4 the California Legislature and the State Controller over the proper interpretation of the  
5 constitutional provisions governing the Legislature's adoption of the budget and the legal  
6 authority of the Controller — or, more accurately, the lack thereof — to enforce those  
7 constitutional provisions or to otherwise engage in any oversight of the Legislature in the  
8 exercise of its constitutional responsibilities concerning enactment of the state budget.

9 2. On June 15, 2011, the Legislature timely enacted and sent to the Governor its  
10 proposed budget for the 2011-12 fiscal year. On June 21, 2011, Controller John Chiang  
11 announced that he had conducted his own review of the Legislature's budget and had concluded  
12 that "the numbers simply did not add up," and he therefore deemed that the Members of the  
13 Legislature had forfeited their pay under Proposition 25, the "On-Time Budget Act of 2010,"  
14 from June 16, 2011, "until a balanced budget is sent to the Governor" in accordance with  
15 article IV, section 12, subdivision (g), of the state Constitution.

16 3. The Controller misinterpreted and incorrectly applied the constitutional  
17 requirements in question: Article IV, section 12, subdivision (g), requires only that designated  
18 appropriations and transfers from the General Fund as of the date of budget bill's passage cannot  
19 exceed "General Fund revenues for that fiscal year estimated as of the date of the budget bill's  
20 passage . . . [and] set forth in the budget bill passed by the Legislature" — a criterion that was  
21 undeniably satisfied in the budget bill passed by the Legislature on June 15, 2011. The  
22 Legislature estimated that General Fund revenues for the 2011-12 fiscal year would be \$87.803  
23 billion, and the amount of General Fund appropriations proposed by the budget bill, when  
24 combined with General Fund appropriations made by existing law for that fiscal year as of the  
25 date of the budget bill's passage, totaled approximately \$86.550 billion, leaving a budgetary  
26 "reserve" of more than \$1.252 billion. The Controller nevertheless asserted that components of  
27 the Legislature's budget were "incomplete" because in some instances the Legislature's revenue  
28 estimates anticipated the passage of "trailer bills" that had not yet been enacted, and in other

1 instances the budget did not include appropriations that, in the Controller's view, would have to  
2 be made in the future. None of the Controller's objections, however, finds any support in the  
3 very specific language and requirements of the Constitution. The Controller went beyond the  
4 limited terms and restrictions imposed by the Constitution by adding into his budget calculation  
5 hundreds of millions of dollars in "appropriations" that were not proposed in the budget bill nor  
6 had been made at the time of the budget bill's passage, and by reducing the Legislature's estimate  
7 of future revenues based upon his own assessment that hundreds of millions of dollars of funding  
8 were projected for the coming fiscal year as a result of pending, but not yet enacted, legislation.

9       4. Moreover, the Controller's interjection of his executive office into the legislative  
10 budget process exceeded his authority and violated the separation of powers doctrine that  
11 underlies our tripartite system of government. Article IV, section 12, of the Constitution assigns  
12 the exclusive responsibility for adopting a budget in compliance with its provisions to the  
13 Legislature and the Governor, and neither the Constitution nor any statute grants the Controller  
14 any role in that process. The Controller's assertion of the right to pass judgment on the validity  
15 of the budget bill passed by the Legislature — and to enforce his opinion by unilaterally deeming  
16 legislators' pay to be forfeited — not only arrogates to his executive branch office one of the core  
17 functions of the legislative branch, but does so in a manner that severely disrupts the  
18 constitutional balance of powers by holding the legislative budget process hostage to the whims  
19 and demands of the Controller. Whether motivated by partisan or self-serving political interests,  
20 or whether acting in the good-faith belief that the Legislature's budget projections were unduly  
21 optimistic, the Controller is unlawfully insinuating himself into a process in which he  
22 constitutionally does not belong — the budget deliberations and decisionmaking of the  
23 legislative branch. The separation of powers clause of the state Constitution flatly prohibits such  
24 an unwarranted intrusion into the legislative function.

25       5. Plaintiffs emphasize that this action does not request any relief with respect to the  
26 Controller's unauthorized withholding of legislators' salaries and expenses in 2011. Plaintiffs do  
27 seek, however, to have the important constitutional questions raised by the Controller's actions  
28 resolved as expeditiously as possible so that this recurring dispute does not disrupt and interfere

1 with the timely enactment of a budget for the 2012-13 fiscal year or any subsequent fiscal year.  
2 Specifically, in order to clarify the respective constitutional responsibilities of the Legislature and  
3 the Controller, this action seeks a judicial declaration that (1) article IV, section 12,  
4 subdivision (g), is satisfied when the Legislature passes and sends to the Governor a budget bill  
5 that appropriates from the General Fund a total amount that, when combined with all previous  
6 General Fund appropriations already made for that fiscal year as of the date of the budget bill's  
7 passage and the amount of any General Fund moneys transferred to the Budget Stabilization  
8 Account for that fiscal year, does not exceed the Legislature's estimate of General Fund revenues  
9 for that fiscal year as of the date of the budget bill's passage; and (2) the Controller has no  
10 authority under the Constitution to review the Legislature's estimate of General Fund revenues  
11 and appropriations for the coming fiscal year as set forth in the budget bill, to make his own  
12 assessment of whether the budget bill passed by the Legislature properly complies with  
13 article IV, section 12, subdivision (g), and to unilaterally enforce his opinion by deeming the  
14 salaries and expenses of the Members of the Legislature to have been forfeited pursuant to  
15 subdivision (h) of that section.

#### 16 PARTIES

17 6. Plaintiff DARRELL STEINBERG is the President Pro Tempore of the California  
18 Senate and files this action in his capacity as Senate President Pro Tem and in his representative  
19 capacity as a Member of the California Legislature. Among his duties and responsibilities as  
20 Senate President Pro Tempore, Plaintiff Steinberg is the Presiding Officer of the Senate, is an *ex*  
21 *officio* non-voting member of all Senate and joint committees of which he is not a regular  
22 member, is Chair of the Committee on Rules, and is responsible for the efficient conduct of the  
23 legislative and administrative affairs of the Senate.

24 7. Plaintiff JOHN A. PERÉZ is the Speaker of the California Assembly and files this  
25 action in his capacity as Speaker of the Assembly and in his representative capacity as a Member  
26 of the California Legislature. Among his duties and responsibilities as Assembly Speaker,  
27 Plaintiff Pérez is the Presiding Officer of the Assembly, is an *ex officio* non-voting member of all  
28 Assembly and joint committees of which he is not a regular member, allocates resources and

1 staffing for the effective operation of the Assembly, authenticates all bills issued by order of the  
2 Assembly with his signature, and is generally responsible for ensuring the efficient conduct of the  
3 legislative and administrative affairs of the Assembly.

4       8. Defendant JOHN CHIANG is the California State Controller, and he is sued  
5 herein in his official capacity. The Controller is an elected state officer in the state's Executive  
6 Branch. Among the duties and responsibilities of the State Controller are the duties to  
7 "superintend the fiscal concerns of the State" and to "draw warrants on the Treasurer for the  
8 payment of money directed by law to be paid out of the State Treasury." Significantly, the  
9 ministerial duties of the Controller do not include any responsibility to review the Legislature's  
10 enactment of the budget bill and to make his own determination as to whether the budget bill is  
11 properly "balanced" in accordance with article IV, section 12, subdivision (g), of the Constitution  
12 — much less to refuse to issue warrants for legislators' pay and expenses based upon his belief  
13 that the Legislature did not properly perform its duties under that constitutional provision.

14       9. Plaintiffs are unaware of the true names and capacities of and Defendants DOES I  
15 through X, inclusive, and they are therefore sued by such fictitious names pursuant to Code of  
16 Civil Procedure section 474. Plaintiffs allege on information and belief that each such  
17 fictitiously named Defendant is responsible or liable in some manner for the events and  
18 happenings referred to herein, and Plaintiffs will seek leave to amend this Complaint to allege  
19 their true names and capacities after the same have been ascertained.

#### 20                                   **JURISDICTION AND VENUE**

21       10. The Court has jurisdiction to grant declaratory relief pursuant to Code of Civil  
22 Procedure section 1060. Venue is proper in the County of Sacramento pursuant to Code of Civil  
23 Procedure section 393, subdivision (b).

#### 24                                   **GENERAL ALLEGATIONS**

##### 25                                   **OVERVIEW OF THE BUDGET PROCESS**

26       11. Article IV, section 12, of the Constitution requires the Governor to submit a  
27  
28

1 proposed budget to the Legislature on or before January 10th of each year.<sup>1</sup> The Governor's  
2 budget is accompanied by a budget bill that includes an itemized statement of all recommended  
3 state expenditures and an estimate of state revenues for the ensuing fiscal year. Each expenditure  
4 reflects the allotment of an appropriation from a particular fund, and the budget bill is the only  
5 bill that can contain more than one item of appropriation. If the total appropriations proposed in  
6 the Governor's budget bill exceed estimated revenues, the Governor is required to identify the  
7 sources from which the additional revenues necessary to cover any shortfall should be provided.

8       12. Because the "single-subject rule" set forth in article IV, section 9, of the  
9 Constitution requires all bills, including the budget bill, to "embrace but one subject" — and the  
10 one subject of the budget bill is the appropriation of funds for the annual state budget — any  
11 proposed statutory changes necessary to implement the Governor's proposed budget must be  
12 addressed in separate legislation. The attendant budget-implementing bills are commonly  
13 referred to as "budget trailer bills." By law, the Governor's proposed budget trailer bills must be  
14 provided to the Legislature by February 1st of each year. In addition, the Director of the  
15 Department of Finance, who serves as the Governor's chief fiscal policy advisor, must provide  
16 the Legislature with any proposed adjustments to the Governor's budget by April 1 and a revised  
17 estimate of General Fund revenues, along with any related proposals to reduce expenditures, no  
18 later than May 14.

19       13. Once submitted, the Governor's proposed budget bill is introduced immediately in  
20 both houses of the Legislature by the respective budget committee chairs, and the Legislature has  
21 until midnight on June 15th to pass a final budget bill. Until the budget bill has been enacted, the  
22 Legislature is prohibited from sending to the Governor for consideration any other bill that would  
23 appropriate funds for expenditure during the upcoming fiscal year, except for emergency bills  
24 recommended by the Governor or appropriations for the salaries and expenses of the Legislature.  
25 Again, any substantive changes in law or revisions to existing government programs that might  
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27       <sup>1</sup>Unless otherwise indicated, all citations to article IV herein refer to article IV of the  
28 California Constitution.

1 be needed in order to implement the spending priorities reflected in the budget bill, as well as any  
2 tax increases or other revenue enhancements that are necessary to fund the appropriations made  
3 in the budget bill, must be addressed by the Legislature in separate legislation. Since many of  
4 these bills contain appropriations, by constitutional mandate the Legislature cannot, on its own  
5 authority, send them to the Governor until after the budget bill has been enacted (hence the  
6 appellation "trailer bills"). Many trailer bills are heard concurrently with the budget bill, but they  
7 need not be, and any such trailer bills that are not passed at the time of the budget continue to be  
8 considered and are subject to amendment by the Legislature until they are either enrolled and  
9 presented to the Governor or abandoned.

10 14. Once the Legislature's budget bill has been passed by each house, the bill is sent,  
11 or "presented," to the Governor.<sup>2</sup> As with any other legislation, the Governor then either may  
12 sign the budget bill as enacted by the Legislature, may allow it to become law without his  
13 signature, or may veto it by returning it to the Legislature with his objections (where the veto can  
14 be overridden by a two-thirds vote). The Governor also has the authority to "reduce or eliminate  
15 one or more items of appropriation while approving other portions of a bill," commonly referred  
16 to as a "line-item" veto. The budget bill officially becomes the Budget Act when it is signed by  
17 the Governor and filed with the Secretary of State.

#### 18 PROPOSITION 58

19 15. After a period of high growth in revenues and expenditures in the late 1990's,  
20 state tax revenues plunged in 2001 and the budget fell badly out of balance, with the state  
21 carrying over large deficits from year to year and engaging in a significant amount of borrowing.  
22 In an effort to address these issues, at the March 2, 2004, primary election, the voters passed  
23 Proposition 58, which made three sets of amendments to the Constitution.

24 16. First, addressing a perceived infirmity in the budget process in which the  
25 Governor was required to *propose* a balanced budget but the state was not actually required to  
26

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27 <sup>2</sup>The comprehensive state spending plan for a fiscal year is frequently set forth in multiple  
28 bills. Together, the bills are referred to as "the budget bill."

1 enact a budget that was balanced, the Constitution was amended so that the budget ultimately  
2 passed by the Legislature and signed by the Governor would have to be balanced in accordance  
3 with the measure's prescribed formula. Proposition 58 also added a provision to the Constitution  
4 to address the need for mid-year budget adjustments in special session in the event the state  
5 found itself facing substantial revenue shortfalls or spending increases. Second, in order to  
6 cushion the impact on the budget from future downturns, Proposition 58 created a special reserve  
7 within the General Fund — called the Budget Stabilization Account — and required that a  
8 portion of annual General Fund revenues be transferred into that account each year until the  
9 balance in the account reached \$8 billion or 5% of General Fund revenues, whichever is greater;  
10 the Governor, however, is authorized to issue an executive order suspending or reducing the  
11 required transfers into the Budget Stabilization Account for any fiscal year. Third, together with  
12 a companion bond measure (Proposition 57), Proposition 58 authorized the issuance of a \$15  
13 billion, "single object" deficit-financing bond to "wipe the slate clean" and help eliminate the  
14 existing cumulative budget deficit, while simultaneously adding language to the Constitution that  
15 would prohibit most future borrowing to cover budget deficits.

16 17. The so-called "balanced budget" provision of Proposition 58 is specifically at  
17 issue in the instant litigation. A new subdivision (f) — subsequently redenominated as  
18 subdivision (g) following the passage of Proposition 25 — was added to article IV, section 12,  
19 providing:

20 "For the 2004-05 fiscal year, or any subsequent fiscal year, the Legislature may  
21 not send to the Governor for consideration, nor may the Governor sign into law, a  
22 budget bill that would appropriate from the General Fund, for that fiscal year, a  
23 total amount that, when combined with all appropriations from the General Fund  
24 for that fiscal year made as of the date of the budget bill's passage, and the  
25 amount of any General Fund moneys transferred to the Budget Stabilization  
Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds  
General Fund revenues for that fiscal year estimated as of the date of the budget  
bill's passage. That estimate of General Fund revenues shall be set forth in the  
budget bill passed by the Legislature." (Art. IV, § 12, subd. (g).)

26 Under Proposition 58's formula for a "balanced budget," then, the Legislature must set forth in  
27 the budget bill an estimate of General Fund revenues for the coming fiscal year, and that estimate  
28 must exceed or equal the sum of three amounts: (1) appropriations from the General Fund for the



1 fiscal year as proposed in the budget bill; (2) other appropriations “from the General Fund for  
2 that fiscal year made as of the date of the budget bill’s passage,” and (3) any moneys transferred  
3 from the General Fund to the Budget Stabilization Account for that fiscal year.

4 18. Proposition 58 also recognized that the estimates and projections that are used in  
5 formulating the budget are necessarily just that — *estimates* and *projections* that might not, in  
6 fact, turn out as predicted. Accordingly, the measure also provided that if, after the budget bill is  
7 enacted, the Governor determines that over the course of the fiscal year General Fund revenues  
8 will fall substantially below the estimate of General Fund revenues upon which the budget bill  
9 was based, or that General Fund expenditures will increase substantially above that estimate of  
10 revenues, he may declare a fiscal emergency and call the Legislature into special session. If the  
11 Legislature fails to pass legislation to address the fiscal emergency by the 45th day following the  
12 Governor’s declaration, it may not adjourn until it does so, and it may not act on any other bill in  
13 the meantime.

#### 14 **PROPOSITION 25**

15 19. The voters amended article IV, section 12, again at the November 2, 2010, general  
16 election, when they passed Proposition 25, the “On-Time Budget Act of 2010.” As its title  
17 reflects, the principal problem addressed by Proposition 25 was that the Legislature was  
18 chronically late in passing and presenting the budget bill to the Governor. Since 1972, the  
19 Constitution had contained the requirement that the Legislature “shall pass the budget bill by  
20 midnight on June 15 of each year,” but the Legislature had routinely been unable to muster the  
21 two-thirds supermajority vote needed to enact a budget bill by this constitutional deadline.

22 20. Proposition 25 identified two principal causes for the chronically late budgets.  
23 One was the two-thirds vote requirement for enactment of the budget. The other was that there  
24 was no effective penalty imposed upon the Legislature for failing to meet the June 15th  
25 constitutional deadline. Proposition 25 therefore adopted a “carrot and stick” approach to  
26 address the issue of late budgets: The vote required to pass a budget bill was lowered from two-  
27 thirds to a simple majority of each house of the Legislature, but members of the Legislature  
28 would permanently forfeit their salaries and reimbursements for living expenses for each day that

1 the budget was late.

2 21. To accomplish the first of these objectives, Proposition 25 amended article IV,  
3 section 12, subdivision (d), to exempt General Fund appropriations in the budget bill and in other  
4 “related budget bills” from the two-thirds vote requirement. Proposition 25 likewise amended  
5 section 12 to permit the budget bill to take effect immediately pursuant to a majority vote of each  
6 house of the Legislature, so that an urgency clause (which would necessitate a two-thirds vote)  
7 would not be required for that purpose. At the same time, Proposition 25 was careful to  
8 emphasize that a two-thirds vote would still be needed for the Legislature to raise taxes, even if  
9 the increased tax revenues were a consideration in the budget bill’s estimate of General Fund  
10 revenues.

11 22. The “stick” portion of Proposition 25 was set forth in the addition of a new  
12 subdivision (h) to article IV, section 12, which calls for the forfeiture of legislators’ pay if the  
13 budget bill is not passed by midnight on June 15, until the date that the budget bill is presented to  
14 the Governor. That subdivision provides:

15 “Notwithstanding any other provision of law . . . , in any year in which the budget  
16 bill is not passed by the Legislature by midnight on June 15, there shall be no  
17 appropriation from the current budget or future budget to pay any salary or  
18 reimbursement for travel or living expenses for Members of the Legislature during  
19 any regular or special session for the period from midnight on June 15 until the  
20 day that the budget bill is presented to the Governor. No salary or reimbursement  
21 for travel or living expenses forfeited pursuant to this subdivision shall be paid  
22 retroactively.”

#### 23 BUDGET EVENTS OF JUNE 2011

24 23. On January 10, 2011, the Governor submitted his proposed budget for fiscal year  
25 2011-12 to the Legislature. That same day, the Senate Budget & Fiscal Review Committee Chair  
26 introduced the Governor’s budget bill in the Senate, denominated Senate Bill No. 69 (“SB 69”),  
27 and the Chair of the Assembly Committee on Budget introduced the Governor’s budget bill in  
28 the Assembly, denominated Assembly Bill No. 98 (“AB 98”).

29 24. The Legislature’s primary budget bill, SB 69, itemized proposed state  
30 expenditures, identified a fund for each such appropriation, and utilized a coding scheme and  
31 general organizational structure compatible with the Governor’s Budget. In addition to making

1 appropriations for support of the state government for the 2011-12 fiscal year, SB 69 also set  
2 forth that “[f]or purposes of subdivision (g) of Section 12 of Article IV of the California  
3 Constitution, the estimate of General Fund revenues for the 2011-12 fiscal year pursuant to this  
4 act, as passed by the Legislature, is \$86,842,200,000.” SB 69 passed the Assembly and the  
5 Senate by a majority vote in each house on March 17, 2011.

6 25. AB 98 amended SB 69, and collectively, the two bills constituted the  
7 Legislature’s budget bill for the 2011-12 fiscal year. Among other revisions, AB 98 amended the  
8 Legislature’s estimate of General Fund revenues for the fiscal year, setting the final estimate at  
9 \$87,803,300,000. AB 98 also identified a list of approximately one hundred Senate and  
10 Assembly bills “providing for appropriations related to the Budget Bill within the meaning of  
11 subdivision (e) of Section 12 of Article IV of the California Constitution.” AB 98 passed the  
12 Assembly and Senate by majority votes on June 15, 2011. At approximately 5:00 p.m. that same  
13 day, the Legislature presented its budget bill, as set forth in SB 69 as amended by AB 98, to the  
14 Governor.

15 26. On June 16, 2011, the Governor returned SB 69 and AB 98 to the Legislature  
16 without his signature, thereby vetoing the Legislature’s budget bill. In the accompanying  
17 message, the Governor commended Democrats in the Legislature for “their tremendous efforts to  
18 balance the budget in the absence of Republican cooperation,” specifically referencing their  
19 “valiant efforts to address California’s budget crisis by enacting \$11 billion in painful cuts and  
20 other solutions.” The Governor expressed his concern, however, that the budget submitted to  
21 him “continues big deficits for years to come and adds billions of dollars of new debt. . . . [¶] We  
22 can — and must — do better.”

23 27. Five days later, on June 21, 2011, Defendant State Controller Chiang issued his  
24 own press release in which he announced that, pursuant to his office’s “review of the recently-  
25 passed budget,” he “found components that were miscalculated, miscounted or unfinished. The  
26 numbers simply did not add up, and the Legislature will forfeit their pay until a balanced budget  
27 is sent to the Governor.” Acknowledging that “[n]othing in the Constitution or state law gives  
28 the State Controller the authority to judge the honesty, legitimacy, or viability of a budget,” the

1 Controller nevertheless asserted the right to “determine whether the expected revenues will equal  
2 or exceed planned expenditures in the budget, as required by Article 4, Section 12(g) of the  
3 Constitution.” Controller Chiang opined that “the recently-vetoed budget committed the State to  
4 \$89.75 billion in spending, but only provided \$87.9 billion in revenues, leaving an imbalance of  
5 \$1.85 billion.” In particular, the Controller objected that “[t]he June 15 budget underfunded  
6 education by more than \$1.3 billion,” and he faulted the budget for “count[ing] on \$320 million  
7 in hospital fees, \$103 million in taxes on managed-care plans, and \$300 million in vehicle  
8 registration charges,” even though “the Legislature never passed the bills necessary to collect or  
9 spend those funds as part of the State budget.”

10 28. The Controller did not provide any detailed analysis as to how he had reached his  
11 conclusions, but his press release referenced and attached the “Controller’s Proposition 25  
12 Budget Analysis,” which identified four specific revenue-generating bills that were considered by  
13 the Legislature in its revenue estimate, but which had not yet been enacted as of the date of the  
14 budget bill’s passage. As noted above, the Controller also added in an additional \$1.478 billion  
15 to the Legislature’s “expenditures” to account for the supposed “underfunding” of education.  
16 Finally, the Controller added \$770.1 million in “expenditures” for something he entitled  
17 “Liquidation of Encumbrances,” without explaining what that figure was supposed to represent.  
18 The Controller relied on these alleged “miscalculations” to conclude that the Legislature’s  
19 June 15, 2011, budget bill did not meet the requirements of Proposition 58. The Controller then  
20 announced that, pursuant to Proposition 25, he had deemed the legislators to have forfeited their  
21 pay and living expenses from June 16 until “the day that the budget bill is presented to the  
22 Governor.”

23 29. In the meantime, the Legislature was busy reconsidering the budget bill following  
24 its return from the Governor. On June 28, 2011, the Senate and Assembly enrolled and presented  
25 to the Governor Senate Bill No. 87 — a new budget bill for the 2011-12 fiscal year. On June 30,  
26 2011, the Governor signed the Legislature’s budget bill and enacted the 2011-12 Budget Act into  
27 law.  
28

1 **FIRST CAUSE OF ACTION**

2 (Declaratory Relief, Code Civ. Proc., § 1060)

3 30. Plaintiffs re-allege and incorporate herein by reference the allegations set forth in  
4 paragraphs 1 through 29 above.

5 31. Defendant Chiang misinterpreted the Constitution and exceeded his authority by  
6 concluding that the Legislature's June 15, 2011, budget bill violated Article IV, section 12,  
7 subdivision (g). Pursuant to that provision, it is the constitutional responsibility of the  
8 Legislature, before passing the budget bill, to estimate General Fund revenues for the coming  
9 fiscal year and to satisfy itself that the budget bill's appropriations from the General Fund, when  
10 combined with all previous appropriations made from the General Fund for that fiscal year as of  
11 the date of the budget bill's passage, as well as any General Fund moneys transferred to the  
12 Budget Stabilization Account, do not exceed those projected revenues. When the General Fund  
13 appropriation amounts specified by section 12, subdivision (g), do not exceed the Legislature's  
14 estimate of General Fund revenues set forth in the budget bill — as was the case with the  
15 Legislature's June 15, 2011, budget bill — that constitutional requirement has been satisfied.  
16 The Controller went beyond the terms and restrictions imposed by the Constitution under  
17 section 12, subdivision (g), by adding into the budget calculation hundreds of millions of dollars  
18 in "appropriations" that were neither proposed in the budget bill nor had been made at the time of  
19 its passage, and by reducing the Legislature's estimate of future revenues based upon his own  
20 assessment that hundreds of millions of dollars of funding were projected for the coming fiscal  
21 year as a result of pending, but not yet enacted, legislation.

22 32. Defendant Chiang further exceeded his authority under the Constitution and  
23 violated the separation of powers doctrine by interjecting himself into the legislative budget-  
24 making process and by deeming the Legislature's pay to be forfeited based upon his own analysis  
25 of the Legislature's budget calculations. The courts have repeatedly held that the Controller's  
26 duties are generally ministerial, and that his responsibility to draw warrants for the expenditure of  
27 state funds does not include the authority to ascertain the validity of the payment. Article IV,  
28 section 12, of the state Constitution assigns the responsibility for adopting a budget in

1 compliance with its provisions to the Legislature and the Governor, and neither the Constitution  
2 nor any statute grants the Controller's office any role in that process, much less the power to  
3 declare the Legislature's pay to be forfeited based upon the Controller's unilateral determination  
4 that section 12, subdivision (g)'s requirements allegedly were not satisfied.

5       33. An actual controversy has arisen and now exists between Plaintiffs and Defendant  
6 concerning the respective constitutional duties and responsibilities of the California Legislature,  
7 on the one hand, and the State Controller, on the other, with respect to the enactment of the state  
8 budget. As set forth above, Plaintiffs contend (1) that the budget bill passed by the Legislature  
9 complies with article IV, section 12, subdivision (g), when the General Fund appropriations  
10 proposed by the budget bill, when combined with all previous General Fund appropriations  
11 already made for that fiscal year as of the date of the budget bill's passage and the amount of any  
12 General Fund moneys transferred to the Budget Stabilization Account for that fiscal year, does  
13 not exceed the Legislature's estimate of General Fund revenues for that fiscal year as of the date  
14 of the budget bill's passage; and (2) that the Constitution assigns the responsibility for adopting a  
15 budget in compliance with its provisions to the Legislature and the Governor, and neither the  
16 Constitution nor any statute grants the Controller's office any role in that process, much less the  
17 power to declare the Legislature's pay to be forfeited based upon the Controller's unilateral  
18 determination that article IV, section 12, subdivision (g)'s requirements allegedly were not  
19 satisfied. Plaintiffs are informed and believe, and on that basis allege, that Defendant Chiang  
20 contends in all respects to the contrary. A judicial determination and declaration as to the legal  
21 duties and responsibilities of the Legislature and the Controller is therefore necessary and  
22 appropriate in order to determine the respective duties of Plaintiffs and Defendant and to  
23 preserve the separation of powers provided for in the state Constitution.

24                                   **PRAYER FOR RELIEF**

25       WHEREFORE, Plaintiffs pray for judgment as follows:

26       1. That this Court declare the following:

27                   a. The Legislature complies with article IV, section 12,  
28                   subdivision (g), of the Constitution when it sends the Governor a budget

1 bill that, on its face, proposes General Fund appropriations that, when  
2 combined with all previous General Fund appropriations made for that  
3 fiscal year as of the date of the budget bill's passage and any General Fund  
4 moneys transferred to the Budget Stabilization Account for that fiscal year,  
5 do not exceed the Legislature's estimate of General Fund revenues for the  
6 fiscal year as of the date of the budget bill's passage.

7 b. The Constitution assigns the responsibility for adopting a  
8 budget in compliance with its provisions to the Legislature and the  
9 Governor, and the Controller has no authority under the Constitution to  
10 review the Legislature's estimate of General Fund revenues and  
11 appropriations for the coming fiscal year as set forth in the budget bill, to  
12 make his own assessment of whether the budget bill passed by the  
13 Legislature complies with article IV, section 12, subdivision (g), of the  
14 Constitution, and to unilaterally enforce his opinion by deeming the  
15 salaries and expenses of the Members of the Legislature to have been  
16 forfeited pursuant to subdivision (h) of that section.

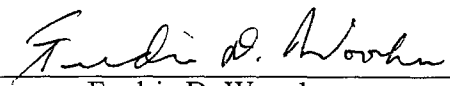
17 2. That this Court grant Plaintiffs such other, different, or further relief as the Court  
18 may deem just and proper.

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20 Date: January 24, 2012

Respectfully Submitted,

21 ARTHUR G. SCOTLAND

22  
23 STRUMWASSER & WOOCHER LLP  
24 Fredric D. Woocher  
Giulia C. S. Good Stefani

25  
26 By   
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27 *Attorneys for Plaintiffs*  
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